REMARKS/ARGUMENTS

Claims 1-5 are pending. Favorable reconsideration is respectfully requested in light of the following remarks.

At the outset, Applicants thank Examiner Langel for the helpful comments in the outstanding Office Action and during the discussions of the present application between the mailing date of the Office Action and the date of filing the documents herewith, is summarized and expanded upon below. Further, Applicants thank Examiner Langel for indicating that the remarks below may further favorable prosecution of the present application.

The rejection of Claims 1-5 under 35 U.S.C. § 103(a) over Riethmann et al. in view of Surovikin et al. is traversed below.

Riethmann et al. discloses, at best, a process for producing cyanuric chloride by trimerization of cyanogen chloride in the presence of a washed activated carbon having a BET surface area of at least 1000 m^2/g and an iron content of less than 0.15 w%, at a temperature of at least 250°C (see column 2, line 6 to column 3, line 40). Applicants thank the Office for indicating that Riethmann et al. fails to disclosure or suggest the present invention, in part, because Riethmann et al. do not specifically disclose that the activated carbon should have an effective pore volume of greater than or equal to 0.17 mL/g obtained from pores having a pore diameter in the range of 0.5 to 7 nm. It should be further noted that Riethmann et al. disclose that their utility is only maintained in the positive effect exclusively when pore volumes therein range from 0.2-1.7 cm^3/g having pore sizes ranging from 200 to 2000 Angstroms (from 20 to 200 nm).

In light of the above, the Office relies upon Surovikin et al. which is described below.

Surovikin et al. disclose, at best, a carbonaceous material having a pore volume of from 40 to 200 Angstroms (4 to 20 nm) (see column 1, line 58-column 2, line 37). However,

this is merely one section of the totality of the disclosure of Surovikin et al. The Office must consider the disclosure of Surovikin et al. as a whole. If taken as a whole, the Office would understand that the pore size disclosed therein may range from 40 to 200 Å only in specific situations. For example, Surovikin et al. clearly teach away from monoporous absorbents with pore size of less than 100 Å (10 nm) as shown at column 3, lines 55-58:

> In the case of a monoporous absorbent with a pore size of less than 100Å, the efficiency of utilization of the surface and of the deposited active component is decreased due to intra-diffusion complications.

In light of the above, it is clear that Surovikin et al. expressly teaches away in the situation of monoporous absorbents having less than 100 Å. Accordingly, Surovikin et al. in its entirety fails to suggest the pore size distribution having a maximum of less than 100Å (10 nm).

In direct contrast to both Riethmann et al. and Surovikin et al., the present invention relates, in part, to a process of producing cyanuric chloride by utilizing activated carbon having an effective pore volume of greater than or equal to 0.17 mL/g and a pore diameter ranging from 0.5-7 nm.

In light of the above, it is clear that Riethmann et al. fails in its disclosure to disclose all together the claimed invention due to not teaching the claimed pore volume, nor the pore diameter. Moreover, Surovikin et al. in its entirety provides no motivation to a skilled artisan reading its disclosure of utilizing a carbonaceous material having a pore size of less than 10Å, much less an expectation of success in using such carbonaceous materials in view of its disclosure at column 3, lines 55-58 mentioned above. Therefore, Riethmann et al. fails to disclose all the limitations of the claimed invention, while Surovikin et al. actually teaches away from utilizing a carbonaceous material in the claimed process as claimed.

Riethmann et al. and Surovikin et al. clearly fail to disclose or suggest all limitations of the claimed invention as required by the MPEP (see § 2143.03 and *In re Royka* 180 USPQ

580 (CCPA 1974)). Accordingly, any combination of the above-mentioned references clearly fails to anticipate the claimed invention, much less suggest it. Additionally, it has not been pointed out to the Applicants as to where any specific motivation lies within any of the above-mentioned references that would motivate the skilled artisan reading the same to modify the process disclosed therein towards the claimed invention. In fact, taken as a whole, Surovikin et al. clearly teaches away from the claimed invention as discussed above, providing the skilled artisan with no motivation or expectation of success therein.

In light of the above, it appears as if the Examiner is relying on the Applicants disclosure to supply motivation to modify the disclosures of Riethmann et al. and Surovikin et al. to arrive at the claimed invention. However, this is clearly improper according to a recent decision by the U.S. Federal Courts in *In re Lee* (61 USPQ2D 1430 (CA FC 2002)). The *Lee* Court indicated that the Office must provide specific motivation, hint, or suggestion, found in the references relied upon to support a prima facia case of obviousness. In the present case, the Office appears to rely on the present specification for motivation, which is clearly forbidden according to the *Lee* Court, especially in light of explicit disclosures in the cited art that teach away from the claimed invention. In light of this decision, Applicants respectfully request the Office not to use the present specification as a guidepost to combine the disparate disclosures of the cited references (see the decision in *In re Vaeck* 20 USPQ 2d 1438).

In view of the above, any combination of Riethmann et al. and Surovikin et al. clearly fail to disclose, much less suggest the claimed invention. Therefore, no prima facia case of obviousness can possibly exist over Riethmann et al. and Surovikin et al. Accordingly, withdrawal of these grounds of rejection is respectfully requested.

Applicants respectfully submit that the present application is now in condition for allowance. Should anything further be required to place this application in condition for allowance, the Examiner is requested to contact Applicants' attorney by telephone.

Respectfully submitted,

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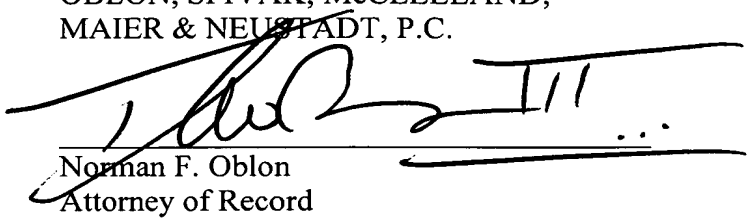

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